



STATE BOARD OF LAND COMMISSIONERS

James E. Risch, Governor and President of the Board

Ben Ysursa, Secretary of State

Lawrence G. Wasden, Attorney General

Keith L. Johnson, State Controller

Marilyn Howard, Superintendent of Public Instruction

George B. Bacon, Secretary to the Board

Final Minutes Regular Land Board Meeting December 12, 2006

The regular meeting of the Idaho State Board of Land Commissioners was held on Tuesday, December 12, 2006 in Boise, Idaho. The meeting began at 9:05 a.m. in the second floor courtroom of the Borah Post Office building. The Honorable Ben Ysursa presided. The following members were present:

Honorable Attorney General Lawrence G. Wasden
Honorable State Controller Keith L. Johnson
Honorable Superintendent of Public Instruction Marilyn Howard

Secretary to the Board Interim Director George Bacon

Governor Risch joined the meeting at 9:50 a.m.

• **CONSENT**

A motion was made by Superintendent Howard to approve the Consent Agenda in its entirety. Controller Johnson seconded the motion. The motion carried on a vote of 4-0, with Governor Risch being absent for this vote.

1. Director's Report – approved

- A. Interest Rate on Department Transactions – November 2006
- B. Bureau of Real Estate, Land Sale Section, Official Transactions – October 2006
- C. Bureau of Real Estate, Easement Section, Official Transactions – October 2006
- D. Timber Sale Official Transactions – October 28, 2006 through November 22, 2006
- E. Timber Sale Activity Report
- F. Legal Matter Summary
- G. Bureau of Surface and Mineral Resources, Official Transactions – October 2006

2. Timber Sales – Staffed by Roger Jansson, Operations Chief-North, and Steve Douglas, Operations Chief-South – approved

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|-----------------|------------|-------|-----|-------------------|
| A. Placer Ridge | CR-40-0789 | 4,875 | MBF | Clearwater County |
| B. Ophir Two | CR-60-0168 | 2,105 | MBF | Boise County |

DISCUSSION: Attorney General Wasden asked for verification that the clearcuts meet Board policy and are silviculturally justified. Director Bacon stated that the clearcuts are within Board policy. There are two clearcuts, 65 and 35 acres each. The clearcuts are necessary due to heavy root rot infestation and insect mortality. Seed trees are inadequate in this area to do any other type of harvest.

3. Qualified Bidders List – Timber Sales – Staffed by Bob Helmer, Chief, Bureau of Forest Management – approved

A. Vaagen Brothers Lumber, Inc., 565 West 5th, Colville WA 99114

4. Conceptual Approval to Initiate an Exchange Between the State of Idaho and the Wood River Land Trust – Staffed by Perry Whittaker, Chief, Bureau of Real Estate – approved

DEPARTMENT RECOMMENDATION: Direct the Department to initiate the exchange process with the WRLT using the substitute residential lot. Conceptual approval allows the Department to enter into an agreement to initiate the exchange and to perform the necessary appraisals to finalize the exchange. A final exchange proposal will be presented to the Land Board for approval.

BOARD ACTION: Approved.

5. Approval Request for Disclaimer of Interest to Milan Gould for Accretion Land Adjacent to the Boise River in Canyon County – Staffed by Perry Whittaker, Chief, Bureau of Real Estate – approved

DEPARTMENT RECOMMENDATION: Direct the Department to issue a disclaimer of interest for one parcel totaling 11.13 acres of the former bed of the Boise River and to require Milan Gould to pay a fee of \$600.00 to the Department of Lands for this transaction.

BOARD ACTION: Approved.

6. Application for Renewal of Mineral Lease 3013 – Staffed by Sharon Murray, Program Manager, Minerals – approved

DEPARTMENT RECOMMENDATION: Direct the Department to renew the lease for a five (5) year term subject to the standard lease form and the existing standard stipulations.

BOARD ACTION: Approved.

7. Minutes – approved

A. Regular Land Board Meeting – November 14, 2006

• REGULAR

8. Endowment Fund Investment Board Manager's Report – Presented by Larry Johnson, Manager of Investments, EFIB

A. Monthly Report – No action taken on this agenda item.

The fiscal year-to-date absolute returns of 7.7% thru November have been good, although performance vs. benchmark has been disappointing. The Fund has reached \$1 billion in size. At its November meeting the Investment Board voted to terminate one investment manager.

B. Permanent Fund – No action taken on this agenda item.

Mr. Johnson covered a presentation on transfers from the earnings reserve to the permanent fund. At the August 2006 meeting, the Land Board asked the Reform Review Task Force and the Endowment Fund Investment Board to work together to determine the advisability of transferring from earnings reserve to the permanent fund. The recommendation of both groups is that no transfer be made to earnings reserve at this time.

Mr. Johnson stated that a key issue is, how high should the earnings reserve balance be? The size of the reserves should be based primarily on the volatility, or variability, of the income going into the reserves. Income is made up primarily of interest and dividends from the fund and revenues from the lands. The current analysis of income variability implies we would like to have two and a half years of reserves in the public school fund and significantly more for some of the smaller funds.

Currently the funds are experiencing a positive cash flow: distributions are less than the income. The question is, at what point would we feel comfortable raising those distributions given that positive cash flow? At the end of FY 2006, reserves totaled almost \$100 million. With an approved distribution in 2008 of \$38 million, we have significant coverage of the current distribution.

However, should the distributions be raised, the reserves should be raised as well. It is estimated that reserves of about \$250 million total, or about two and a half times what we have in the bank now, is the minimum needed. Therefore, the endowments do not have enough reserves to support their expected long term level of distributions. They certainly have enough reserves to support the current level but not the long term level. Therefore, both the Task Force and the Investment Board recommend no transfers from earnings reserves to the permanent fund for any endowment at this time.

Controller Johnson asked how the two and a half year threshold was calculated. Mr. Johnson stated the groups reviewed the historical variability of lands revenue for public schools, which is about 15% or 20% per year as well as the variability of the income stream for the endowments. After the endowments reach their gain benchmark, the reserve funds will only receive total earnings, including capital gains, above inflation. With the variability of the stock market, it is possible that one year out of three the fund would not earn above inflation and no income would flow to earnings reserve that year. When all of that is factored in, along with a little bit of cushion, the groups arrived at the two and a half year number.

Controller Johnson asked if there is any difference in the return of having the money in earnings reserve versus in the permanent fund. Mr. Johnson stated no, both are invested the same.

Secretary of State Ysursa asked how timber sales, which provide about 89-90% of net income, factor into the calculations. Mr. Johnson stated that timber income variability is driven by two factors: price and volume. The Public Schools endowment has a big enough land tract that harvest volume is fairly constant. For the other endowments, however, that is not true. But on the price side, auction prices may vary by as much as 30% from one year to the next even in the public school fund.

C. Escheat Memo

DEPARTMENT RECOMMENDATION: Endorse the proposed legislation and a General Fund appropriation of \$351,000 to the Public School Permanent Endowment Fund.

DISCUSSION: Attorney General Wasden asked for clarification. His understanding of the proposed legislation is that it brings the Unclaimed Property Act into conformance with the Idaho constitutional provisions. Mr. Johnson stated that the Attorney General's understanding is correct.

Controller Johnson asked if the 1996 legislation violated the Constitution, is this legislation necessary to correct it, or would the earlier statute be declared unconstitutional and, therefore, we revert back to the pre-1996 legislation? Attorney General Wasden stated typically the statute would remain in effect until it is determined by a court of competent jurisdiction that it is unconstitutional, so it would be operative except that we recognize there is a constitutional limitation. Therefore, it is appropriate to make this statutory change.

BOARD ACTION: A motion was made by Controller Johnson to adopt the recommendation of the Endowment Fund Investment Board. Attorney General Wasden seconded the motion. The motion carried on a vote of 4-0, with Governor Risch being absent for this vote.

D. Escheats Bill – No action taken on this agenda item.

9. Request to Require Competitive Bidding for Leases of Sand and Gravel from Eagle Island State Park – *Presented by George Bacon, Interim Director*

DEPARTMENT RECOMMENDATION:

1. Direct the Department to reject any mineral lease applications for sand and gravel within Eagle Island State Park and notify any applicants that lease opportunities will be provided as part of the competitive bidding process for the Eagle Island State Park development contract.
2. Direct the Department to work cooperatively with IDPR in preparing competitive lease offers for sand and gravel within Eagle Island State Park.
3. Direct the Department to enter into a Memorandum of Understanding with IDPR whereby IDPR would administer the sand and gravel lease as a component of the development contract for Eagle Island State Park, with the Department retaining its regulatory jurisdiction under the Idaho Surface Mining Act, Idaho Code §§ 47-1501 through 47-1519.

Audience with the Board

- Bob Meinen, Director, Department of Parks and Recreation
- Dave Ricks, Administrator, Management Service, Department of Parks and Recreation

Director Meinen stated this effort began as a positive challenge from the Legislature last session to find creative ways to move forward with the development of Eagle Island State Park. A committee was appointed by Governor Risch to serve as a guide in the process, and a number of public hearings were held. When the initial part of the plan is completed, a lot of the base work for what the park will be in the future will be done. In addition, some very nice recreational facilities will be established in the form of lakes and waterways.

Eagle Island, the whole island, is subject to flooding on a reasonably regular basis. In working with the Corps of Engineers and others, we feel there might be opportunities through this process to try to help address some of those potential flood issues by being able to move floodwater from the south channel to the north channel to relieve some flooding fears. Overall, we believe there are other good, positive, public interests involved.

Mr. Dave Ricks added a lot of work has been put into the conceptual plan.

Director Meinen stated he believes an important partnership with the school districts, the City of Eagle and others will be developed if this project proceeds. He noted there is also a Fish and Game hatchery at the west end of the property, and one proposal is to have a learning center located there that would focus on the outdoors, recreation and natural habitats in the State of Idaho. Director Meinen sees that possibility as a partnership with the Department of Fish and Game and the school districts, and he is very excited about the possibilities.

DISCUSSION: Secretary of State Ysursa asked if the question before the Board is whether or not the State Land Board should authorize competitive leasing. Interim Director Bacon stated the other components are that the Department would work with Parks and Recreation with our expertise on mineral leasing to help them develop their overall contracting proposal and then also enter into a Memorandum of Understanding so they could administer the regulation of the mining, which is also our normal duty, but for efficiencies it just makes sense to have them do it while they are building the park.

BOARD ACTION: A motion was made by Attorney General Wasden to adopt the Department's recommendations as outlined in 1, 2 and 3 above. Controller Johnson seconded the motion. The motion carried on a vote of 4-0, with Governor Risch absent for this vote.

10. Approval Request to Lease State Meadows Grazing Allotment (formerly part of Lacey Meadows Grazing Allotment) – Staffed by Steve Douglas, Operations Chief-South

DEPARTMENT RECOMMENDATION: Direct the Department to offer a grazing lease for the State Meadows Grazing Allotment. If more than one application is filed for the lease, an auction will be held and the results of the auction will be presented to the Board for review and approval.

DISCUSSION: Secretary of State Ysursa noted one of the requirements of the lease is that the successful lessee would be required to build a mile of fence. He asked if the lease will be explicit with that requirement. Interim Director Bacon stated that yes, a mile of fence is needed to enclose the allotment on the north end, and the requirement will be explicit in the lease.

Controller Johnson noted a section of the old Lacey Meadows lease is being created, and the Department is proposing that it now be grazed. He asked if he understands correctly that essentially the rest of the old lease will not be grazed for twenty years. Interim Director Bacon stated that is the Department's estimate of what it would take to march through that area and convert the stands of timber that are decadent. Interim Director Bacon stated he anticipates that the Department would be able to bring before the Board proposals of other areas to lease before then, but given the knowledge of timing on timber sales and success in plantations, the Department does not want to set up any false hopes, and it could take as long as twenty years.

Controller Johnson asked for confirmation that there is no expectation, if the Board votes today to support the recommendation that it is, in fact, taking the rest of that allotment, or lease, off for twenty years. That is just an outside estimate based on what we know today. Interim Director Bacon stated that is correct. The Department's hope is to be able to lease more of the land in the future as the trees grow. The Department will continue to bring annual reports to the Board on the status of the area.

Superintendent Howard noted several reports have been received regarding cattle trespass. She asked if the trespasses are considered a lack of management. Interim Director Bacon stated there was a concern in some instances about a lack of management, but there were also other influences that enabled the cattle to move onto state land, such as people leaving gates open, fences being broken down a little bit and then the presence of wolves moving cattle that normally would not be so inclined to move that far.

BOARD ACTION: A motion was made by Controller Johnson to adopt the Department's recommendation. Superintendent Howard seconded the motion. The motion carried on a vote of 4-0, with Governor Risch being absent for this vote. Secretary of State Ysursa added inherent in the motion is the requirement for fencing. In addition, he stressed the concept of the Board looking out for the best interests of the endowment should be emphasized even in a little blurb about the auction that the Board is looking at net to the endowment in all of these transactions.

- **INFORMATION**

No Land Board action is required on the Information Agenda.

11. Recruitment – Director, Idaho Department of Lands

- **EXECUTIVE SESSION – Withdrawn**

At 9:45 a.m., a brief recess was taken. The meeting resumed at 9:50 a.m. with Governor Risch joining the meeting. Governor Risch provided background information on the Idaho Statewide Implementation Strategy for the National Fire Plan. This has been developed over a period of time and it is something that there has been a considerable amount of input in. It is a collaborative effort just as most of the efforts that we have these days in natural resources and Commissioner Cope is here with us today. Governor Risch invited Commissioner Cope, one of the signatories, to provide background information on this topic.

Commissioner Cope stated we're here today to adopt and sign off on the Idaho Statewide Implementation Strategy for the National Fire Plan. As you may well be aware, this has been a work in progress for five or six years now. Idaho has actually been a leader nationwide in adopting this strategy or this type of policy mainly because Idaho took the stance early on that rather than adopting a policy that would be on the community level as the CWPPs are designed in the National Fire Plan and in the Healthy Forest Restoration Act. These community wildfire protection plans as they apply to Idaho are considered to be county wildfire protection plans so instead of about three hundred we have forty-four. This has worked very well for us in my opinion in that we have been able to involve local government, state government and federal land management agencies working together and hand-in-hand understanding the local needs and being able to establish the projects and prioritize them as should be. The IDL has been extremely beneficial to us. In fact, our chair has always been an IDL employee. At first we started with Mark Vore, who left us early on, but was replaced by Peggy Polichio, who has now left us. She was a joint employee of IDL and the Forest Service. So this has been a joint effort with state and federal and county local government all of the way through.

Governor Risch thanked Commissioner Cope for the background information. On a side note, Governor Risch stated Commissioner Cope and he had the opportunity to explain to the federal government what the effect of the fires has been in Idaho. We met with the Forest Service, particularly the Chief of the Forest Service, and when I presented Idaho's roadless plan and I'd say we got a pretty good reception there. I think when we were done I hope we impressed upon them the importance of dealing with this fire situation which is getting worse by the year for us and not just Idaho but all western states.

Governor Risch invited Commissioner Cope to introduce the signatories to the agreement. Commissioner Cope added that this group was recognized with a national award for collaboration two years ago. Our efforts have not gone unnoticed on the federal level.

Signatories present included:

- James E. Risch, Governor, State of Idaho
- George B. Bacon, Acting State Forester, Idaho Department of Lands
- Richard A. Smith, Forest Supervisor, Boise National Forest, US Forest Service
- Thomas Dyer, Idaho State Director, Bureau of Land Management
- Robert A. Whistler, Northwest Regional Forester, Bureau of Indian Affairs
- Deputy Chief Doug Brown, President, Idaho Fire Chiefs Association
- Dr. Robert Cope, Lemhi County Commissioner, Idaho Association of Counties
- Morris Huffman, Idaho Resource Conservation and Development Association
- Mark Larson, State Fire Marshal, Idaho Department of Insurance

Major General Lawrence F. Lafrenz, Adjutant General, Idaho Bureau of Homeland Security, was absent for this signing ceremony.

Attorney General Wasden clarified that this signing ceremony does not appear on the Land Board agenda and does not require Land Board action. Governor Risch agreed that Land Board action is not necessary. The document is being signed at this time at his request.

There being no further business to come before the Board, at 10:05 a.m. a motion was made by Secretary of State Ysursa to adjourn. Controller Johnson seconded the motion. The motion carried on a vote of 5-0.

IDAHO STATE BOARD OF LAND COMMISSIONERS

/s/ C. L. "Butch" Otter

President, State Board of Land Commissioners and
Governor of the State of Idaho

/s/ Ben Ysursa

Ben Ysursa
Secretary of State

/s/ George B. Bacon

George B. Bacon
Director

The above-listed final minutes were approved by the State Board of Land Commissioners at the February 13, 2007 regular Land Board meeting.